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SENATE

{ REPORT
No. 1313

FRANCIS CORWIN CIRCLE

MAY 7, 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 5070]

The Committee on Claims, to whom was referred the bill (H. R. 5070) for the relief of Francis Corwin Circle, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

On page 1, line 6, strike out the figures "\$7,500" and insert "\$4,110.85".

The facts are fully set forth in House Report No. 1982, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1982, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5070) for the relief of Francis Corwin Circle, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Line 5, strike out "allocated by the President for the maintenance and operation of the Civilian Conservation Corps" and insert in lieu thereof "not otherwise appropriated".

The purpose of the proposed legislation is to pay to Francis Corwin Circle, of Seaside, Oreg., the sum of \$7,500 for personal injuries sustained on February 28, 1941, about 1 mile south of the Cannon Beach Road junction, when the truck that he was driving was struck by a truck operated in connection with the Civilian Conservation Corps.

STATEMENT OF FACTS

On February 28, 1941, a Government truck operated in connection with the Civilian Conservation Corps on official business was proceeding in a northwesterly direction on United States Highway No. 101 about 5 miles southeast of Seaside, Oreg., at a speed of about 30 miles per hour, and following a loaded log truck, owned and operated by Francis Circle. The road was 18 feet wide and paved, divided into two lanes of traffic with dirt and gravel shoulders, about 4 feet wide. Upon rounding a curve and entering upon a straight section of the road 900 feet long, the Government driver attempted to pass the civilian vehicle, and when it was alongside, a Buick sedan rounded a curve, approaching from the opposite direction; that the Government driver cut in sharply ahead of the log truck in an effort to avoid a collision with the oncoming sedan. As he did so, his right front fender scraped the left front fender of the Circle vehicle, causing the civilian driver to lose control of his truck. Fearing to be crushed by the load of logs, the civilian driver leaped from the cab, and in so doing, sustained the following injuries: Fracture of the tenth, eleventh, and twelfth left ribs at the angles and fracture through the left pubic ramus and ischial ramus; developed phlebitis of the left leg. The War Department, in report dated July 18, 1941, recommends:

"After careful consideration of all the evidence adduced in this case, it is the view of the War Department that, while the Government driver may have been guilty of a certain degree of negligence in not immediately applying his brakes and dropping back behind the log truck on observing the approach of the Buick sedan, the civilian was also negligent in failing to give way to the Government driver which was overtaking it, and that such contributory negligence on the part of the civilian driver defeats his claim."

Your committee have carefully considered the evidence submitted in support of this legislation by the claimant, as well as the evidence submitted by the Department, and in comparing the two, it is found that United States Highway No. 1 is not a straight highway, and that there are curves in the road for its entire length; that the distance between the curve that the civilian truck and Government truck had rounded and the curve that they were approaching was a distance of a straightaway of only 938 feet; that the Government driver contends that, as he was attempting to pass the civilian truck, he was at least 700 feet from the curve; however, the driver of the Buick sedan which was approaching from the opposite direction states that as he rounded the curve that the Government truck, which was then attempting to pass the civilian truck, was a distance of only 300 feet away. Section 55-2305 of the Oregon traffic regulations states:

"The driver of a vehicle shall not drive to the left side of the center of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken, nor shall the driver of a vehicle in any event drive to the left side of the center line of a highway when approaching the crest of a hill or upon a curve in the highway where the driver sees along the highway an obstacle within a distance of 500 feet."

From the evidence on file, the action of the Government driver is in direct violation of the above-quoted regulation. The Government driver contends that he could have completed the passing of the civilian truck if the operator of the civilian truck had not increased speed at the time he gave the signal to pass. However, your committee find that the civilian truck was a large truck-trailer type of vehicle, the trailer of which was loaded with logs; that a truck of this type is naturally low-gearred for the reason that its purpose is pulling power, rather than speed. Due to the fact that it is a low-gearred vehicle, the act of increasing speed on straightaway is a long process, and it is, therefore, doubtful that the statements of the Government driver are correct, in this instance. Mr. Circle states that he did not slow down because he assumed that the Government driver,

seeing the approach of the Buick sedan from the opposite direction, would apply his brakes and return to his proper side of the road, in back of him; he also states that he did not increase the speed of his truck. Disinterested witnesses, in affidavits submitted for the consideration of your committee, are all of the opinion that the accident was caused through the sole negligence on the part of the driver of the Civilian Conservation Corps truck. From the investigating officer's report, submitted by the War Department, for the consideration of the committee, there is found under the heading, "Findings," the following, which is assumed by your committee to be the recommendation of the investigating officer:

"That Roland O. Kirk, CC4-375198, the driver of United States Civilian Conservation Corps truck No. 17479, was not under the influence of liquor, although in passing an International truck, license No. 54257, 1941, Oregon, he cut in front of the truck too soon, which is unlawful."

Your committee received an affidavit from Drs. A. J. Kerbel and Arthur Van Dusen, who state that Mr. Circle was confined to St. Marys Hospital from the 28th day of February 1941, to the 12th day of April 1941, and that during said time they attended him, and that he sustained the following injuries: Fracture of the tenth, eleventh, and twelfth ribs, left side, fracture of the left upper and lower puboischial rami, separation of the left sacroiliac synchondrosis, and he also developed phlebitis of his left leg which condition still exists; that in their opinion this condition of his left leg will be permanent and will prevent him from attending to his customary duties and will prevent him from earning livelihood from work involving heavy lifting or straining; that as a result of the injury, Mr. Circle has incurred medical and hospital expenses in the sum of \$492.85. Appended hereto is the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,
Washington, July 18, 1941.

HON. DAN R. McGEHEE,
Chairman, Committee on Claims, House of Representatives,
Washington, D. C.

DEAR MR. McGEHEE: The War Department is opposed to the enactment of H. R. 5070, Seventy-seventh Congress, which would pay to Francis Corwin Circle, of Seaside, Oreg., the sum of \$7,500 in full satisfaction of his claim against the United States for personal injuries suffered on February 28, 1941, about 1 mile south of the Cannon Beach road junction, when the truck in which he was riding was struck by a truck owned by the United States and operated by an employee of the Civilian Conservation Corps.

On February 28, 1941, at about 11:40 a. m., a Government truck operated in connection with the Civilian Conservation Corps, on official business, was proceeding in a northwesterly direction on United States Highway No. 101 about 5 miles southeast of Seaside, Oreg., at a speed of about 30 miles per hour, and following a loaded log truck owned and operated by Francis Circle, of 216 Avenue G, Seaside, Oreg. The road was 18 feet wide and paved, divided into two lanes of travel, had shoulders about 4 feet wide, and was dry at the time of the accident. The weather was cloudy. Upon rounding a curve and entering upon a straight section of road about 1,500 feet long the Government driver attempted to pass the civilian vehicle and when he was alongside it he saw a Buick sedan coming around a curve about 700 feet ahead and approaching at a rapid rate of speed. He cut in sharply ahead of the log truck in an effort to avoid a collision with the oncoming Buick sedan, and as he did so the right rear fender of the Government vehicle scraped the left front fender of the civilian vehicle, causing the civilian driver to lose control of his truck. Fearing to be crushed by the load of logs, the civilian driver leaped from the cab and in so doing sustained the injuries that form the basis of the proposed legislation.

The Government driver testified that at the time when he swung out to the left in his attempt to pass the log truck he could see ahead for a distance of about 1,500 feet to a slight curve; that he repeatedly blew his horn to indicate his desire

to pass; that he had difficulty in getting by the truck which at the time was over the center line of the road and continued to use more than half of the road; that when he saw the Buick sedan approaching he did not have time to drop back behind the other truck, and so tried to get ahead of it before meeting the Buick; that he would have been able to pass the truck easily if the driver had not been gaining speed and crowding him for room.

The company commander of Civilian Conservation Corps Company 6414, Seaside, Oreg., who was riding in the Government truck with the driver, testified that just prior to the accident the said vehicle was being driven at a speed of 30 miles per hour and had been following the log truck for about a mile; that the log truck had been traveling at a speed of about 30 miles per hour and that the driver (Francis Circle) seemed to have slowed down to about 25 miles per hour as he rounded the curve coming onto a 1,500-foot straightaway; that just as the log truck rounded the curve the Government driver pulled out and blew his horn as a signal to pass; that as the Government vehicle got alongside the log truck the driver blew his horn two or three times more because the left dual wheels of the log truck were over the yellow line and crowding the Government vehicle for room to pass; that the log truck seemed to be gaining speed as its driver pulled over to the right of the center line; that at this time a 1941 Buick sedan rounded the curve at a distance of about 700 feet and approached at a very rapid rate of speed; that the driver of the Government truck did not have sufficient time to drop back behind the log truck and tried to pass the said truck ahead of the Buick; that as the Government truck passed the log truck the Government driver cut in to avoid a head-on collision with the Buick; that as he did so the right rear fender of the Government vehicle scraped the left front fender of the log truck; that the speed of the Government truck at this time was about 35 miles per hour and that of the log truck about 30 miles per hour. He further testified that while he was rendering first-aid treatment to Mr. Circle, the latter said that he could have slowed down but that he thought the Government truck was going to drop back.

Mr. Circle testified that he was driving on his proper side of the road; that he tried to avoid the accident by pulling over to the right until two wheels were off the pavement so as to prevent the Government vehicle from striking his vehicle; that he was afraid to turn out any farther because of the load he had on his truck. He further testified that as the Government truck came alongside the logs on his truck he heard a horn blowing; that a moment later he saw a Buick sedan coming into view around the curve ahead; that he kept thinking that the Government truck would drop behind him because he had plenty of time to do so; but that the driver of the Government truck chose to try to get around the civilian truck so as to avoid hitting the oncoming Buick head-on.

The driver of the Buick sedan testified that on coming around the curve he found a log truck approaching him on its side of the road and, abreast of it, attempting to pass, a Civilian Conservation Corps truck taking up the balance of the road; that it appeared to him that some part of the right side of the Government truck had struck the left front fender of the log truck; and that the Government truck was crowding the log truck off the highway at the point of impact.

With reference to the injuries sustained by Mr. Circle, the following statement was made on March 24, 1941, by Dr. Adolph J. Kerbel, of Astoria, Oreg.:

"That I attended Francis Circle on February 28, 1941, after he had been injured in an accident with his truck. He incurred fractures of the tenth, eleventh, and twelfth left ribs at the angles and a fracture through the left pubic ramus and ischial ramus. Duration of hospitalization under normal conditions would be about 6 weeks; however, Mr. Circle developed a phlebitis of the left leg since he has been bedridden and which will, naturally, complicate his convalescence. The duration of his disability will continue for, at least, 1 more month and even longer.

"Permanence of disability cannot be, at this time, determined."

There is no information of record in the War Department as to the medical and hospital or other expenses incurred by Mr. Circle as a result of his injuries.

Upon investigation of the accident, the investigating officer found that it appeared that the Government vehicle could have easily passed the log truck had the log truck continued at the same speed; that the driver of the log truck was apparently increasing his speed after having rounded some sharp turns; that the driver of the Government truck tried to avoid hitting the oncoming car head-on by cutting in front of the log truck; and that the driver of the log truck failed to heed the warning of the driver of the Government vehicle.

In this latter connection, applicable traffic regulations read in pertinent part as follows:

"The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on suitable and audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle."

No claim has been filed with the War Department as a result of this accident.

After a careful consideration of all the evidence adduced in this case, it is the view of the War Department that while the Government driver may have been guilty of a certain degree of negligence in not immediately applying his brakes and dropping back behind the log truck on observing the approach of the Buick sedan, the civilian driver was also negligent in failing to give way to the Government vehicle, which was overtaking it, and that such contributory negligence on the part of the civilian driver defeats his claim.

While, therefore, deeply regretting this accident, the War Department is constrained to recommend that the proposed legislation be not approved.

Copies of the testimony taken in this case are enclosed for the information of the committee.

Sincerely yours,

ROBERT P. PATTERSON,
Acting Secretary of War.

STATE OF OREGON,
County of Clatsop, ss:

I, Francis Corwin Circle, of lawful age, being first duly sworn, depose and say that I have read a copy of the report of Hon. Robert P. Patterson, Acting Secretary of War, made to the Honorable Dan R. McGehee, chairman of the Committee on Claims, House of Representatives, Washington, D. C., and that there are various inaccuracies therein so far as the facts are concerned, which I desire to correct.

That previously to reading a copy of said report I had no information as to the testimony or affidavits furnished by the driver of the said Government truck or by the company commander of Civilian Conservation Corps Company 6414, Seaside, Oreg., who was riding in the Government truck which caused said collision. That the statements made by the driver of said Government truck as well as the said company commander to the effect that upon rounding a curve in said highway there is a straight of way in said highway of about 1,500 feet is absolutely incorrect. That I went to the Oregon State highway department at Astoria, Oreg., which has a correct map of the survey of said road and that as shown on the attached map, there is only a distance of 938 feet straight of way between said curves.

That the statement made by said driver of said Government truck as well as by said company commander to the effect that the left wheels of my truck were beyond the yellow center line on said highway, or in other words on my left one-half of said highway are absolutely untrue, because I was accustomed to driving this truck for about 2 years, and drivers of logging equipment on the Oregon State highways, and particularly on this highway in question, are being constantly checked, unbeknown to us, by Oregon State patrol officers, and therefore, it is our constant habit, which I followed at the time of the accident, to drive as closely to the right edge of the pavement and free of the yellow center line as possible so as not to subject myself to arrest or having my driver's license revoked.

That if the driver of the Government truck sounded his horn prior to the time he attempted to pass my logging truck as testified to by him and the commanding officer, I did not hear any such horn signal, because in driving and operating one of these loaded logging trucks a great deal of noise and vibration is caused by the load and by the large tiers on the pavement of the road, but when he did attempt to pass me he sounded his horn but the horn did not make a loud noise but only a very weak sound that I could just hear. Since I was on my right one-half of the road, and my left one-half of the road was entirely free from traffic traveling in the same direction as I was, there really was no necessity for the driver of the Government truck to signal for the right one-half of the road because it was entirely free and unobstructed, but when the driver of the Government truck attempted to pass me and was about abreast of me and did sound his horn I immediately reduced my speed and likewise pulled over to the right shoulder of the highway as far as possible so as to give him ample opportunity to pass my logging truck and equipment.

That the view of the driver of the Government truck, in approaching the curve in question, was obstructed by a barn and growing vegetation and for that reason he could not see around or across said curve and did not know whether there was any on-coming traffic from the opposite direction, and when he sounded his horn for the purpose of passing me, he was only about 300 feet distance from the curve

ahead of him, which, going at the speed he was going and while attempting to overtake me, was not a safe distance to permit him to pass my logging truck with safety to himself or with safety to other vehicles, including myself using said highway so far as traffic is concerned that was approaching from the opposite direction. That the driver of said Government truck was well familiar with said highway and with the curves therein and with the straight of way therein, because he had traveled it on many occasions and he therefore knew that as soon as he had negotiated the curve ahead of me that he would have a straight of way ahead of him of about three-quarters of a mile on which he would have had ample opportunity of passing me, but, nevertheless, he chose to overtake me when he was dangerously close to this curve and while not knowing whether there was traffic approaching from the opposite direction.

That the attached map only shows the location of the curve in the highway and does not disclose the barn and growing vegetation previously mentioned.

That at the time of submitting my claim there were likewise submitted a verified hospital bill of the St. Mary's Hospital at Astoria, Oreg., in the amount of \$192.85 and a verified bill of Drs. Van Dusen and Kerbel in the amount of \$300, and my own affidavit discloses the fact that the repair bills to my truck were \$18, not taking into account that in the accident the frame of the truck was sprung, and that after inquiring I was reliably informed and believed that it would cost about \$100 to repair this damage.

That I likewise deny the assertion of the driver of said Government truck and said company commander to the effect that I increased my speed after the driver of the Government truck sounded his horn to pass. That it is utterly impossible for me to have done so for the simple reason that the way these logging trucks are geared they do not pick up speed as a passenger car does, but it takes a very long distance before there is any noticeable increase in speed on a perfectly level road. Besides that, there were five other loaded logging trucks ahead of me at the time, and I maintained the same safe distance behind the logging truck immediately in front of me, allowing for emergencies, so in the event the loaded logging truck in front of me should in some way or other get into trouble, that I would have ample space in which to effect an emergency stop. Hence, there was no occasion for me to increase my speed because I was not attempting to either catch up with or overtake any vehicle in front of me but was merely maintaining my place in a caravan of logging trucks.

FRANCIS CORWIN CIRCLE.

Subscribed and sworn to before me this 23d day of August 1941.

[SEAL]

F. M. FRANCISCOVICH,
Notary Public.

My commission expires April 8, 1945.

STATE OF OREGON,
County of Clatsop, ss:

I, Francis Corwin Circle, of lawful age, to wit 32 years, being first duly sworn, depose and say: That I am a citizen of the United States of America and an actual resident of the State of Oregon, residing at Seaside, Clatsop County, Oreg.

That on the 28th day of February 1941 I was a contract log hauler, hauling logs for Callow & Day from the Markam & Callow camp, about 35 miles south of Seaside, to Warrenton, Oreg., on a basis of \$3.55 for 1,000 board feet of logs, having to furnish my own equipment; and that on said day I was also the registered owner of a 1939 50-60 International truck and a Page & Page trailer and bearing Oregon license No. 54-257, my license number being chauffeur's license No. 4R398780, expiring June 30, 1941. Under said afore-mentioned log-hauling contract I was making approximately \$250 net per month.

That on said 28th day of February 1941, at about 11:40 a. m., I was proceeding in a northerly direction toward Warrenton, being loaded at that time with three heavy logs; and when about 1 mile south of the Cannon Beach road junction, a United States Government truck or Civilian Conservation Corps truck, bearing Government license No. 94032, traveling in the same direction, caught up with me and attempted to pass me, sounding his horn for such purposes, whereby I pulled over as far as I possibly could to the extreme right edge of the road in order to permit said Government truck to pass. That at that time I was about 300 feet south of a curve in the road, and when said Government truck attempted to pass, a Buick automobile, bearing Oregon license No. 90-141 and driven by one certain G. C. Sheahan, came around the curve approaching us from the opposite direction.

That evidently the driver of the Government truck realized that at the speed he and said Buick car were respectively going, he did not have room enough in which to pass, and in order to avoid a head-on collision with said Buick car he drove said Government truck into the left front wheel of my log-hauling truck with such force that I was forced into the ditch on the right side of the road, and my truck and trailer started to tilt and upset. That logs being carried on these log-hauling trucks and trailers are loaded thereon in such a fashion that they ride in a cradle and are fastened to the body of the truck and trailer by means of iron chains thrown over the logs to hold them in position and to keep them from rolling off; but, in the event of the upsetting of a vehicle, there is always a great deal of danger of the logs slipping forward and through the cab in which the truck driver is riding and killing the operator. That when I felt my log-hauling equipment upsetting and realizing the danger of these shifting logs and the possibility of them going through the cab, I only had one recourse left, and that was to save myself by jumping, which I did. At the time I jumped, the equipment was off the paved portion of the road, and when I landed I fell, and the rear wheels of my truck had already raised and then either passed over my body or struck me a heavy glancing blow, which, I am unable to tell, because at the time I fell I also hit my head on something, as a result of which I was in a dazed condition.

As a result I suffered a fractured pelvis, three fractured ribs, and had to be removed immediately to the St. Mary's Hospital at Astoria, Oreg., where I was continuously confined under the care of physicians and nurses until the 12th day of April 1941. That as a further result of said accident a blood clot formed in my left leg, which had to be reduced by hot packs for 3 weeks, and which ever since has impaired the circulation in my leg, and am still unable to do any kind of work, and my physicians are unable to advise me for how much longer this condition will continue.

That at the present time I do not know the extent of my doctor bills, but my hospital bill is \$192.85. The repair bills to my truck were \$18, not taking into account that in the accident the frame of the truck was sprung, and that, after inquiring and I verily believe it will cost about \$100 to repair this damage.

That the Government truck was being driven by a Civilian Conservation Corps boy from the Saddle Mountain Civilian Conservation Corps camp, whose name is Roland Kirk, and that said Government truck was being driven by said Civilian Conservation Corps boy while it was also occupied by Lt. Asa B. Luter, of the United States Army, for the purpose of going to an Astoria bank in order to get the money for the pay roll.

That while I was confined at St. Mary's Hospital in Astoria, an investigation was made of this accident by Lt. A. T. Strickland, Company 6414, Civilian Conservation Corps, Seaside, Oreg., and at that time said Lieutenant Strickland prepared an affidavit for me to sign, which I did sign, relating the same circumstances which said Lieutenant Strickland took away with him for the purpose of making some sort of a report.

That, at the time of the happening of said accident, a bus belonging to the Oregon Motor Stages was following said Buick automobile, and the driver of said bus was R. M. Robbins, whose address is Tillamook, Oreg. The accident was likewise witnessed by Frank Hoyt, Route No. 1, St. Helens, Oreg., who was a passenger in said bus.

That the names of my physicians are Dr. Arthur Van Dusen and Dr. A. J. Kerbel, Astoria, Oreg.

That at the time said Government truck was attempting to overtake me, while approaching said curve I was traveling about not to exceed 35 miles per hour.

That after I had given the afore-mentioned sworn statement of the accident to Lt. A. T. Strickland, a United States Army captain from Vancouver, Wash., called on me at the hospital at Astoria, Oreg., with reference to the accident and questioned me concerning the accident for about 2 hours and took notes of all my answers, but did not request me to sign any further statements.

That, as a result of said accident, I suffered a great deal of pain and have lost to date about \$500 earnings, and to date have been obliged to pay \$8 per day for 41 days for a driver for my truck, and will continue to lose earnings at the rate of about \$250 per month, and will be obliged to continue to pay at the rate of \$8 per day for such driver until I am able to drive said truck again myself.

FRANCIS CORWIN CIRCLE.

Subscribed and sworn to before me this 26th day of April 1941.

[SEAL]

RUTH BONAR, Notary Public.

My commission expires August 10, 1942.

In re claim of Francis Corwin Circle. Before the Congress of the United States.
Brief on behalf of claimant

There is no need of engaging in any lengthy discussion of the facts or the law applicable to the situation.

By section 115-331 of the O. C. L. A. which used to be Oregon Code, 1935, supplement, section 55-2305, which was in full force and effect at the time of the collision between Mr. Circle's logging truck and the Government's Civilian Conservation Corps truck it is provided as follows:

"The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken, nor shall the driver of a vehicle in any event drive to the left side of the center line of a highway when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of five hundred (500) feet."

and by section 115-320 of O. C. L. A. which used to be Oregon Code, 1935 supplement, section 55-2201 which was likewise at that time in full force and effect, it is provided as follows:

"Basic rule. No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface, and width of the highway and the hazard at intersections and any other conditions then existing.

"Nor shall any person drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle, or other conveyance upon (or) entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highway to exercise due care; provided, that this provision shall not be construed to change the rules of pleading and evidence relating to negligence and contributory negligence."

These two Oregon statutes completely cover the situation.

Mr. Francis Corwin Circle, the claimant, on page 1 of his affidavit states as follows: "That at that time (meaning when the Civilian Conservation Corps truck gave him the horn signal to pass) I was about 300 feet south of a curve in the road and when said Government truck attempted to pass, a Buick automobile, bearing Oregon license No. 90-141 and driven by one certain G. C. Sheahan, came around the curve approaching us from the opposite direction. That evidently the driver of the Government truck realized that at the speed he and said Buick car were respectively going, that he did not have room enough in which to pass and in order to avoid a head-on collision with said Buick car he drove said Government truck into the left-front wheel of my log-hauling truck with such force, that I was forced into the ditch on the right side of the road and my truck and trailer started to tilt and upset."

Mr. John C. Sheahan, who was the person operating the Buick automobile from the opposite direction, stated in his affidavit that when he came around the curve he saw Mr. Circle's logging truck and the Civilian Conservation Corps truck approaching him traveling abreast of each other, with the Civilian Conservation Corps truck clear over on the left side of the road and that in order to avoid a head-on collision with it he was obliged and did pull his car clear over to the right side of the road and entirely off the pavement and that when the Civilian Conservation Corps truck passed him it passed him so close as to just miss him.

Mr. R. M. Robbins on page 1 of his affidavit states: "I was at the time driving a bus belonging to the Oregon Motor Stages and was just rounding a curve on said highway and about from 300 and not to exceed 500 feet behind a Buick car, which was being driven by Mr. G. C. Sheahan," and then he goes on and relates how he saw the Buick car pull clear off its right side of the road, saw Mr. Circle's truck and the Civilian Conservation Corps truck approaching abreast and the Civilian Conservation Corps truck striking Mr. Circle's truck.

Mr. Frank V. Hoyt, a passenger in said bus, on page 1 of his affidavit, states as follows: "I was at that time a passenger in a bus belonging to the Oregon Motor Stages and the bus was just rounding a curve on said highway and about from 300 feet not to exceed 500 feet behind a Buick car, which was being driven by Mr. G. C. Sheahan." Then he relates the same circumstances as Mr. Robbins does.

Under the aforementioned Oregon statutes a driver is prohibited from overtaking and passing another vehicle proceeding in the same direction unless the left side of the highway is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaking, nor shall such overtaking or passing be attempted when the driver is approaching a curve or when his view along the highway is obstructed within a distance of 500 feet.

The driver of the Civilian Conservation Corps truck clearly violated this imperative provision of the Oregon statute, and he likewise violated the other Oregon statute known as the basic rule in that he drove said Civilian Conservation Corps truck at a time and under circumstances at a speed which was greater than reasonable and prudent considering the traffic, surface, and width of the highway and all other conditions then and there prevailing. Neither did he have his car under such control so he could either have got back behind the logging truck or stopped. Had he done either instead of persisting in passing the logging truck when so close to this oncoming curve then the accident could not and would not have occurred.

This is exactly the version of the various eyewitnesses to the accident.

Mr. Francis Corwin Circle, on top of page 2 of his affidavit states as follows: "That evidently the driver of the Government truck realized that at the speed he and said Buick car were respectively going, that he did not have room enough in which to pass and in order to avoid a head-on collision with said Buick car he drove said Government truck into the left front wheel of my log-hauling truck with such force, that I was forced into the ditch on the right side of the road and my truck and trailer started to tilt and upset."

Mr. George C. Sheahan at the bottom of page 1 and the top of page 2 of his affidavit states as follows: "That from what I personally saw of the accident, and being an experienced motor-vehicle operator, it is my opinion that the collision was entirely the fault of the driver of the Civilian Conservation Corps truck in attempting to pass Mr. Circle's logging truck when so close to a curve that he did not have a clear vision ahead of him for a sufficient distance to observe whether or not there was oncoming traffic from the opposite direction so as to enable him to overtake said logging truck with safety to himself as well as the safety of Mr. Circle's logging truck and other vehicles using said highway at said time and place."

Mr. R. M. Robbins, the stage driver, on page 2 of his affidavit says as follows: "From what I saw, I believe it was entirely the fault of the driver of the Civilian Conservation Corps truck that this collision occurred, in that he tried to pass this logging truck while he was too close to a curve and could not see oncoming traffic for far enough distance ahead to enable him to pass this logging truck with safety to himself and other vehicles using said highway at that particular point."

Mr. Frank V. Hoyt, passenger in said bus, on page 2 of his affidavit says as follows: "From what I saw, it is my opinion that it was entirely the fault of the driver of the Civilian Conservation Corps truck that this collision occurred and that he tried to pass this logging truck while he was too close to a curve and when he could not see oncoming traffic far enough ahead to enable him to pass this logging truck with safety to himself and with safety to other vehicles using said highway at that particular point, and in crowding Mr. Circle onto the extreme right edge of the pavement, and off the pavement and onto the shoulder thereof and into the ditch, causing his vehicle to upset."

It requires no citation of legal authorities to sustain the well-settled legal principle that if a person is confronted with a situation of imminent peril, and that if a reasonable prudent person under the same identical circumstances then and there prevailing, in order to avoid injury to himself or death considers it the wiser course to jump from a moving motor vehicle rather than take the chance of escaping unhurt by remaining in his seat in the motor vehicle he is not guilty of any contributory negligence. The courts all over the country are unanimous in so holding.

Mr. Circle, the claimant, in his affidavit described how these logs when loaded on the logging truck and trailer are merely riding in a cradle, and are merely chained down to prevent them from rolling off, but that in the event of a collision or an upset of the vehicle and on account of the sudden check of the momentum of the load, there is always imminent danger of the logs sliding forward and through the cab of the driver of the truck, instantly killing him or seriously

injuring him if such a sliding movement of the logs takes place. Mr. Circle likewise states in his affidavit that when the Civilian Conservation Corps truck drove into his left front wheel and fender it forced him into the ditch on the right side of the road causing his logging equipment to tilt. We believe that any reasonably prudent person under those circumstances would have jumped from this vehicle to avoid injury to himself rather than take the chance of being crushed to death by these forward-sliding logs. Unfortunately Mr. Circle either fell or somersaulted when he landed on the highway, but these are circumstances for which he is not responsible but which was brought on proximately by the negligence of the driver of the Civilian Conservation Corps truck.

The affidavit of Mr. Circle as well as Dr. A. J. Korbel and Dr. Van Dusen as well as of the hospital proved beyond question of a doubt that Mr. Circle sustained serious permanent injuries, and it is a wonder that he was not killed. He also sustained serious financial losses on account of damage to his logging equipment and loss of earnings. Loading and driving these logging trucks requires a severe physical strain and the two affidavits of his doctors show that Mr. Circle sustained a permanent injury which prevents him from engaging in such violent physical exercise. Neither can there be any question that the man suffered severe physical pains at the time he was injured and for a long time afterward for which he is entitled to be compensated.

Respectfully submitted.

HOOPER AND FRANCISOVICH, *Attorneys for Claimant.*

STATE OF OREGON,

County of Clatsop, ss:

I, George C. Sheahan, of lawful age, to wit, 37 years, being first duly sworn depose and say: I am a citizen of the United States of America and an actual resident of the State of Oregon, residing at Gearhart, Oreg., and that I am the local representative of Petroleum Products, Inc.

That on the 28th day of February 1941, I witnessed a collision between a Civilian Conservation Corps truck and a logging truck being driven by Francis Corwin Circle, at about 11:40 o'clock about 1 mile South of the Cannon Beach road junction on Highway No. 101.

I was driving my Buick automobile in a southerly direction on said highway and when I was rounding a curve in said highway, I then saw a logging truck, which I later on found out was being driven by Mr. Circle, and a Civilian Conservation Corps truck approaching me from the opposite direction, traveling abreast of each other with the logging truck over on its right one-half of the road and the Civilian Conservation Corps truck crowding it farther and farther to the right and just about when the two trucks were passing me I looked over my left shoulder because I knew a collision between the two vehicles was about imminent and I saw the Civilian Conservation Corps truck hit the left, front fender of Mr. Circle's logging truck and then his logging truck started to tip over into the ditch and I saw Mr. Circle jump from the vehicle and apparently went under the wheels of his own truck. I stopped my car as soon as I could and went to the scene of the accident and found the logging truck in the ditch on the opposite side of the road, and Mr. Circle was lying off the highway, bleeding from a head wound and unable to control one leg.

From what I personally saw of the accident, and being an experienced motor vehicle operator, it is my opinion that the collision was entirely the fault of the driver of the Civilian Conservation Corps truck in attempting to pass Mr. Circle's logging truck when so close to a curve that he did not have a clear vision ahead of him for a sufficient distance to observe whether or not there was oncoming traffic from the opposite direction so as to enable him to overtake said logging truck with safety to himself as well as the safety to Mr. Circle's logging truck and other vehicles using said highway at said time and place. In fact, if I had not driven my car immediately to my extreme right side of the road and onto the rock shoulder thereof, a head-on collision between my car and said Civilian Conservation Corps truck would have been unavoidable since said Civilian Conservation Corps truck was traveling on its left one-half of the yellow center line of said highway, intended for automobile traffic from the opposite direction.

I drove my car as far over to the right as I could and when the Civilian Conservation Corps truck passed me, he just missed me but its driver drove the right front fender of the Civilian Conservation Corps truck into the left front of Mr. Circle's logging truck.

GEORGE C. SHEAHAN.

Subscribed and sworn before me this 28th day of May 1941.

[SEAL]

GENEVIEVE JOHNSON, *Notary Public*.

My commission expires January 8, 1945.

STATE OF OREGON,

County of Clatsop, ss:

I, George C. Sheahan, of lawful age, being first duly sworn, depose and say that I am the same person who heretofore made an affidavit in support of the claim of Francis Corwin Circle against the Government of the United States, arising out of a collision between his logging truck and a Government Civilian Conservation Corps truck on the 28th day of February 1941.

That when I rounded the curve mentioned in my previous affidavit, and got the first view of the two trucks traveling abreast of each other, they were then not to exceed 300 feet from the curve which I was rounding, and therefore in order to avoid a head-on collision with the Civilian Conservation Corps truck I immediately drove my car to my extreme right side of the road and onto the rock shoulder thereof.

GEORGE C. SHEAHAN.

Subscribed and sworn to before me this 25th day of August 1941.

[SEAL]

F. M. FRANCISCOVICH, *Notary Public*.

My commission expires April 8, 1945.

STATE OF OREGON,

County of Clatsop, ss:

I, Frank V. Hoyt, of lawful age, being first duly sworn, depose and say that I am a citizen of the United States of America and reside at St. Helens, Oreg., Route No. 1.

That on the 28th day of February 1941 I witnessed a collision between a Civilian Conservation Corps truck and a logging truck being driven by Francis Corwin Circle, at about 11:40 a. m., about 1 mile south of the Cannon Beach Junction on Highway No. 101.

I was at the time a passenger in a bus belonging to the Oregon Motor Stages and the bus was just rounding a curve on said highway and about from 300 feet not to exceed 500 feet behind a Buick car, which was being driven by Mr. G. C. Sheahan. The bus and the Buick car were traveling on said highway in the southerly direction. As the bus was coming around said curve I saw the Buick car starting to pull to the right of the highway, and off the paved portion thereof onto the rock shoulder and I then saw Mr. Circle's truck and the Civilian Conservation Corps truck traveling side by side, the Civilian Conservation Corps truck attempting to overtake Mr. Circle's truck, and Mr. Circle was pulling his truck off the paved portion of the highway and had both of the right wheels of his truck on the rock shoulder when I saw the Civilian Conservation Corps truck drive into Mr. Circle's truck, causing Mr. Circle's truck to tip and then I saw Mr. Circle jump in an effort to save his life or save himself from injuries.

After jumping out of the cab he somersaulted and rolled under the rear wheels of the truck, the wheels were bouncing over the rough grade along the side of the road and then the wheels bounced about 8 inches up into the air just as they crossed his body. This is the only thing that saved Mr. Circle from being killed instantly, but the wheels of the truck did not bounce quite high enough to clear his body entirely and then the logging equipment started to tip and when it came to a complete stop, Mr. Circle was lying directly in front of the loaded trailer. Both myself and Mr. R. M. Robbins, the driver of the bus, got out immediately and went over to where Mr. Circle was lying and then a car came along, the name of the driver of which I did not learn, which drove to the Cannon Beach Junction in order to call an ambulance. The driver of the bus and myself then returned to the bus, since we could not do anything and as to what happened afterward, I do not know.

From what I saw, it is my opinion that it was entirely the fault of the driver of the Civilian Conservation Corps truck that this collision occurred and that he tried to pass this logging truck while he was too close to a curve and when he could not see oncoming traffic far enough ahead to enable him to pass this logging truck with safety to himself and with safety to other vehicles using said highway at that particular point, and in crowding Mr. Circle onto the extreme right edge of the pavement, and off the pavement and onto the shoulder thereof and into the ditch, causing his vehicle to upset.

FRANK V. HOYT.

Subscribed and sworn to before me this 9th day of June 1941.

[SEAL]

IRENE PHALON, *Notary Public*.

My commission expires September 17, 1941.

STATE OF OREGON,

County of Clatsop, ss:

I, R. M. Robbins, of lawful age, to wit, 30 years, being first duly sworn, depose and say: That I am a citizen of the United States of America and an actual resident of the State of Oregon, residing at Tillamook, Tillamook County, Oreg.

That on the 28th day of February 1941 I witnessed a collision between a Civilian Conservation Corps truck and a logging truck being driven by Francis Corwin Circle, at about 11:40 a. m., about 1 mile south of the Cannon Beach Road junction on Highway No. 101.

I was at the time driving a bus belonging to the Oregon Motor Stages and was just rounding a curve on said highway and about from 300 and not to exceed 500 feet behind a Buick car, which was being driven by Mr. G. C. Sheahan. Both myself and the Buick car were traveling on said highway in a southerly direction. As I was coming around said curve I saw the Buick car starting to pull to the right of the highway and off the paved portion thereof onto the rock shoulder and I then saw Mr. Circle's truck and the Civilian Conservation Corps truck traveling side by side, the Civilian Conservation Corps truck attempting to overtake Mr. Circle's truck, and Mr. Circle was pulling his truck off the paved portion of the highway and had both of the right wheels of his truck on the rock shoulder when I saw the Civilian Conservation Corps truck drive into Mr. Circle's truck, causing Mr. Circle's truck to tip and then I saw Mr. Circle jump.

The way it looked to me was that his truck, while in the act of tipping and on account of the collision threw him, and I saw him fall under the truck, but then my bus passed and I did not see what happened to Mr. Circle after he fell under his truck. I stopped the bus as quickly as I could, got out together with the only passenger I had, Frank Hoyt, of St. Helens, Oreg., grabbed my first-aid kit and went over to the scene of the accident. I found the truck and trailer in the ditch on the opposite side of the road; Mr. Circle was laying about 10 feet south of the cab of the truck severely injured and he could not move his leg. Then a car came along, the name of the driver of which I did not learn, which drove to the Cannon Beach junction in order to call an ambulance. I did not wait until the ambulance arrived, because I was driving the bus on a schedule and left, having stayed at the scene of the accident only about 10 minutes.

That from what I saw, I believe it was entirely the fault of the driver of the Civilian Conservation Corps truck that this collision occurred, in that he tried to pass this logging truck, while he was too close to a curve and could not see oncoming traffic for far enough distance ahead to enable him to pass this logging truck with safety to himself and other vehicles using said highway at that particular point.

R. M. ROBBINS.

Subscribed and sworn to before me this 13th day of May 1941.

[SEAL]

RUTH BONAR, *Notary Public*.

My commission expires August 10, 1942.

STATE OF OREGON,

County of Clatsop, ss:

I, Sister Joanna, of lawful age, being first duly sworn, depose and say that I am in charge of the office and accounts of the St. Mary's Hospital at Astoria, Oreg.

That on February 28 Mr. Francis Corwin Circle was received at the St. Mary's Hospital at Astoria, Oreg., in an injured condition as a result of a collision between his logging truck and a Civilian Conservation Corps truck, and that he remained in St. Mary's Hospital until April 12, 1941, when he was discharged.

That while confined in said hospital he incurred the necessary expenses in the amount of \$192.85 as itemized in the bill of St. Mary's Hospital attached to this affidavit and made a part thereof, all of which said charges are necessarily incurred and are the reasonable and customary charges for such services rendered.

That so far no part of said account has been paid.

Sister JOANNA, *Secretary.*

Subscribed and sworn to before me this 8th day of May 1941.

[SEAL]

RUTH BONAR, *Notary Public.*

My commission expires August 10, 1942.

ST. MARY'S HOSPITAL,
Astoria, Oreg., April 15, 1941.

To Mr. FRANCIS C. CIRCLE.

Room and care Feb. 28 to Apr. 12, 1941:

To 5 days at \$30 per week.....	\$21. 50
To 38 days at \$21 per week.....	114. 00
X-ray (3).....	30. 00
Dressings.....	17. 80
Drugs.....	6. 45
Laboratory fee and pathological examination.....	2. 50
Long-distance call to Vancouver, Wash.....	. 60
Total.....	192. 85

STATE OF OREGON,

County of Clatsop, ss:

I, Dr. A. J. Kerbel, of lawful age, being first duly sworn, depose and say, that I am a duly licensed physician and surgeon, practicing my profession at Astoria, Oreg., and that I am associated with Dr. Arthur Van Dusen.

That on the 28th day of February 1941, one certain Francis Corwin Circle with whom I am well acquainted was injured in an automobile collision on United States Highway No. 101 with a Civilian Conservation Corps truck and as a result of such injuries was taken on the 28th day of February, 1941, to the St. Mary's Hospital at Astoria, Oreg., and at that time I was employed by him to attend to his said injuries. That he was confined in said hospital from the 28th day of February, 1941, to the 12th day of April, 1941, and that during said time I saw him frequently. That as shown by my office records and also to my personal knowledge said Francis Corwin Circle sustained as a result of said collision the following injuries: fracture of the tenth, eleventh, and twelfth ribs on the left side; fracture of the left upper and lower puboischial rami; separation of left sacro iliac synchondrosis and he also developed a phlebitis of his left leg, which condition still exists, and in my opinion this condition of his left leg will be permanent and will prevent him from attending to his customary duties and will prevent him from earning a livelihood from work involving heavy lifting or straining.

That the reasonable value of the professional services rendered to him by myself and Dr. Arthur Van Dusen is of the sum of \$300, no part of which has been paid.

A. J. KERBEL, M. D.

Subscribed and sworn to before me this 9th day of June, 1941.

[SEAL]

F. M. FRANCISOVICH, *Notary Public.*

My commission expires April 8, 1941.

STATE OF OREGON,

County of Clatsop, ss:

I, Dr. Arthur Van Dusen, of lawful age, being first duly sworn, depose and say that I am a duly licensed physician and surgeon, practicing my profession at Astoria, Oreg., and that I have associated with me Dr. A. J. Kerbel.

That, on the 28th day of February 1941, one certain Francis Corwin Circle, with whom I am well acquainted, was injured in an automobile collision on U. S. Highway No. 101 with a Civilian Conservation Corps truck, and as a result of such injuries was taken on the 28th day of February 1941 to the St. Mary's Hospital at Astoria, Oreg., and at that time my associate, Dr. A. J. Kerbel, was employed by him to attend to his said injuries. That he was confined in said hospital from the 28th day of February 1941 to the 12th day of April 1941, and that during said time I saw him frequently. That, as shown by my office records and also to my personal knowledge, said Francis Corwin Circle sustained as a result of said collision the following injuries: Fracture of the tenth, eleventh, and twelfth ribs on the left side; fracture of the left upper and lower puboischial rami; separation of left sacroiliac synchondrosis; and he also developed a phlebitis of his left leg, which condition still exists, and in my opinion this condition of his left leg will be permanent and will prevent him from attending to his customary duties and will prevent him from earning a livelihood from work involving heavy lifting or straining.

That the reasonable value of the professional services rendered to him by myself and Dr. A. J. Kerbel is of the sum of \$300, no part of which has been paid.

A. VAN DUSEN.

Subscribed and sworn to before me this 15th day of May 1941.

[SEAL]

RUTH BONAR, Notary Public.

My commission expires August 10, 1942.

ASTORIA, OREG., May 15, 1941.

ARTHUR VAN DUSEN, M. D. F. A. C. S.

ADOLPHE J. KERBEL, M. D.

MR. FRANCIS CIRCLE,
Battle Ground, Wash.

TO PROFESSIONAL SERVICES

Feb. 28, 1941: To St. Mary's Hospital, Astoria, Oreg.

Treated for: Fracture tenth, eleventh, and twelfth ribs, left side. Fracture of the left upper and lower puboischial rami. Separation of left sacroiliac synchondrosis. On March 11, 1941, patient developed a phlebitis of the left leg, which still exists-----

\$300

CERTIFICATE OF INVESTIGATING OFFICER

I, Arthur T. Strickland, Civilian Conservation Corps subaltern, Company 6414, Camp Saddle Mountain SP-11, Seaside, Oreg., certify that I have investigated the accident between USCCC 17479 Dodge 1½-ton truck and an International log truck model 1939, license No. 54-257. The details of events leading up to, at the time of, and immediately following the accident, are clearly and fully set forth in documentary evidence.

The Civilian Conservation Corps equipment was on official business, and was properly supervised at the time of the accident. Also company commander, Asa B. Luter, was with the driver of the Civilian Conservation Corps truck. The supervision was adequate and in accordance with regulations, and safety regulations were observed. The Civilian Conservation Corps truck was tested and inspected by the undersigned on the morning of February 22, 1941, and was found to be in perfect mechanical condition. The driver of the truck, Roland O. Kirk, CC4-375198, is of high character and his ability as a driver had been tested by District Motor Transportation Officer A. M. Jaroff, Company Commander Asa B. Luter, and by the undersigned. He was found by all three to be a competent driver. He had read safety regulations and found to be in good physical condition. There violations of traffic regulations. The driver of the log truck failed to heed the warning of the driver of the Government vehicle, and the driver of the Government vehicle cut in front of the log truck and the right rear fender of the Government vehicle hit the left front fender of the log truck.

The driver and owner of the International truck, model 1939, license No. 54-257, Oregon, was Francis Circle of 216 Avenue G, Seaside, Ore. The driver of the Government vehicle USCCC 17479 was Roland O. Kirk, CC4-375198. The driver of the log truck was hauling from a logging camp to Warrenton, Ore.

The accident occurred on Highway U. S. 101, 5 miles southeast of Seaside, Ore. The two vehicles that were involved were traveling toward Seaside, Ore., when the accident happened. The Government vehicle had been following the log truck for some distance, at about 30 miles per hour, and attempted to pass on a straight section of road that is three-tenths of a mile long. It appeared that the Government vehicle could have easily passed the log truck in that distance had the log truck continued at the same speed. The driver of the log truck was apparently increasing his speed after having rounded some sharp turns. Both vehicles were going approximately 35 miles per hour at the time of impact. The log truck continued for about 300 feet after the impact, the exact place of impact with reference to the road is not known.

The accident occurred on an 18-foot paved road, with the width of the shoulders from 4 to 6 feet. The road was divided into two lanes of travel and was practically level at the scene of the accident. The road was dry at the time of the accident and weather was cloudy.

The two vehicles had reached a straight section of road three-tenths of a mile long. The driver of the Government vehicle could see this distance and partially around a slight curve to his left when he started to pass the log truck. He could not see completely around the curve because it was obstructed by a barn and some trees. When a car came into sight from around the curve he attempted to get in front of the log truck before he met the oncoming car. In attempting to do so he crowded the log truck and caused the right rear fender of the Government vehicle to hit the left front fender of the log truck. There were no tracks before the point of impact. The only tracks that could be seen were the ones made by the log truck when it left the pavement. It gradually went toward the ditch until it went into the ditch, causing the trailer to overturn. It could not be determined the exact point of impact, therefore the distance traveled after the impact could not be determined. The log truck went 235 feet after leaving the pavement. The Government vehicle pulled off the road several hundred feet further. In hitting the log truck, the only damage done to the Government vehicle was to scratch some of the paint off of one fender. The left front fender of the log truck was bent and when the trailer overturned the connection was broken.

The driver of the Government truck tried to avoid hitting the oncoming car head on by cutting in front of the log truck. The driver of the log truck jumped from his truck and was injured in doing so. He was given first aid by Asa B. Luter, and was taken direct to St. Mary's Hospital in Astoria, Ore., about 30 minutes after the accident. There it was found that he had a cracked pelvic bone and several broken ribs. He is now being treated at that hospital.

The log truck was an International 1939 model, with six cylinders and a trailer attached for hauling logs. It was purchased at McMinville, Ore., on August 25, 1939, and was new at the time. The price paid at the time of purchase was \$6,660.

So far as known both vehicles were in good mechanical condition. Neither of the drivers were under the influence of intoxicating liquors. The driver of the Government vehicle blew his horn and it was heard by the driver of the log truck.

A report was made to the civil authorities about 30 minutes after the accident, and a written report was made the next day. The driver of the Government vehicle was on official business for the purpose of company pay roll and mail.

The owner of the log truck is insured with the Truck Exchange Insurance Co., of Portland, Ore. The insurance is \$5,000 and \$10,000 public liability insurance. He has no connection with the military service.

ARTHUR T. STRICKLAND,
*Civilian Conservation Corps Subaltern,
Investigating Officer.*

HEADQUARTERS

COMPANY 6414, CIVILIAN CONSERVATION CORPS

Office of the Company Commander

CAMP SADDLE MOUNTAIN SP-11

SEASIDE, OREG., March 5, 1941.

CERTIFICATE

I certify that USCCC 17479 Dodge truck, 1½-ton model 1939, was inspected on the morning of February 22, 1941, by Transportation Officer Arthur T. Strickland, Civilian Conservation Corps subaltern, and was found to be in perfect mechanical condition and no exceptions were taken on the inspection report, and further certify that the driver, Roland O. Kirk, CC4-375198, is of a very high character and his ability as a driver was tested at H. V. B. D. by District Motor Transportation officer A. M. Jaroff, and that he was given a physical examination and found to be in good physical condition prior to the issuance of his United States Army motor-vehicle operator's permit. And that he was also tested by the undersigned and the transportation officer, Arthur T. Strickland, and that he had read safety rules and regulations and was found to be a competent driver.

ASA B. LUTER,

*Civilian Conservation Corps Company Commander,
Commanding Company 6414.*

CERTIFICATE

I certify that I, Asa B. Luter, Civilian Conservation Corps company commander, Company 6414, Seaside, Oreg., was a passenger in the Dodge truck USCCC 17479, which was involved in an accident, 5 miles southeast of Seaside on United States Highway 101, and that I was seated in the cab beside the driver, Roland O. Kirk, and witnessed the accident involving the truck in which I was a passenger and the International truck loaded with logs, driven by Francis Circle, of 216 Avenue G, Seaside, Oreg.

The accident occurred about 5 miles southeast of Seaside, Oreg., on United States Highway 101, near Mr. Nordmark's house on February 28, 1941, at around 11:40 a. m. Just prior to the accident the vehicle was being driven northwest on Highway 101 in the direction of Seaside, Oreg., at a rate of speed of 30 miles per hour and had been following the log truck for about a mile when the accident occurred. The log truck had been traveling at a rate of speed about 30 miles per hour and the driver (Francis Circle) seemed to have slowed down to about 25 miles per hour as he rounded the curve, coming onto a 1,500-foot straightway. Just as the log truck rounded the curve the Army truck driver pulled out and blew his horn as a signal to pass and, as the Government vehicle got alongside the log truck the driver blew his horn two or three times more because the left dual wheels of the log truck were over the yellow line and crowding the Government vehicle for room to pass. The log truck seemed to be gaining speed as he pulled over to the right of the center line and at this time a 1941 Buick sedan, driven by George C. Sheahan, Astoria, Oreg., rounded the curve at about 700 feet distance and approaching at a very rapid rate of speed. The Government truck, in which I was a passenger and which Roland O. Kirk was driving, did not have sufficient time to drop back behind the log truck and tried to make it past the log truck before the Buick which was coming head on, and as the Government truck passed the log truck it cut in in order to avoid a head on collision with the Buick sedan. And as he did the right rear fender of the Government vehicle scraped the left front fender of the log truck. As he passed I heard the fender scrape as he cut in but did not feel any jar when it scraped and did not know that the log truck had gone in the ditch until I looked back through the rear glass. The log truck then got its right wheels off the pavement on the shoulder and the driver (Francis Circle) lost control of the truck, jumped out, and let the truck go. The point of the impact was less than a foot to the right of the center line of the road. The rate of speed of the Government vehicle at this time was about 35 miles per hour and the speed of the log truck was about 30 miles per hour.

From the point of impact the Government vehicle proceeded about 290 feet down the road and stopped in the road where I got out and ran back to where the log truck was and Kirk proceeded with the Government truck and parked it on the shoulder at 340 feet from the point of impact. As soon as I got back I saw Francis Circle, driver of the log truck laying in the ditch and at about that time Mr. Sheahan, driver of the Buick, handed me the first-aid kit. I examined Mr. Circle and found that a minor cut one-half inch on the back of his head was bleeding, so I tied it up to stop it from bleeding. Mr. Circle complained of his left hip. I examined it and found that he could move his leg and foot all right. He said at the time the undersigned was giving first-aid treatment that he could have slowed down, but that he thought the Army truck was going to drop back. The ambulance from Astoria picked the injured man (Mr. Circle) up about 12:10 p. m. and carried him to the St. Mary's Hospital in Astoria, Oreg.

The truck, driven by Francis Circle, proceeded 235 feet from the point of impact and off the road into the ditch where the trailer broke loose and turned over with the logs. There was no skid marks on the pavement from the vehicles and there was no damage to the Government vehicle. The log truck had the coupling between the truck and trailer broken and the brake hose was pulled loose. The damage to the log truck was \$18.

The roadway condition was dry pavement, 18 feet wide, with gravel shoulders varying from 4½ to 6 feet. The weather was cloudy. The road was divided into two lanes by a yellow center line. The accident occurred on a slight down grade of less than 1 percent along a straight section of road of 1,500 feet and then coming into about a 5° curve to the left. A barn and some trees obstructed the view around the curve and when the Buick came into view it was about 700 feet away.

The Government vehicle was in perfect mechanical condition at the time of the accident and also after the accident.

The driver of the Government vehicle, Roland O. Kirk, blew his horn several times as he pulled alongside the log truck because as he pulled alongside the log truck the dual wheels were running just to the left of the center line. This wreck might have been avoided but the driver of the log truck seemed to increase speed just as the Government vehicle was about to pass, thinking the Government vehicle was going to drop back. But the Government vehicle was alongside the cab of the log truck when the Buick came into view, about 700 feet down the road. It might have been avoided if the driver of the log truck had not jumped from his truck, when its wheels got off the pavement because the shoulders were gravel.

Francis Circle, 216 Avenue G, Seaside, Oreg., was injured in the accident.

There was no evidence of intoxication on the part of any driver involved in the accident.

ASA B. LUTER,
Civilian Conservation Corps Company Commander,
Commanding Company 6414.

AFFIDAVIT

STATE OF OREGON,
County of Clatsop, ss:

Personally appeared before me, the undersigned, authorized to administer oaths in matters of this nature, one Adolphe J. Kerbel, M. D., of Astoria, Oreg., who, upon being duly sworn, deposes and says:

That I attended Francis Circle on February 28, 1941, after he had been injured in an accident with his truck. He incurred fractures of the tenth, eleventh, and twelfth left ribs at the angles, and a fracture through the left pubic ramus and ischial ramus. Duration of hospitalization under normal conditions would be about 6 weeks; however, Mr. Circle developed a phlebitis of the left leg since he has been bedridden and which will, naturally, complicate his convalescence. The duration of his disability will continue for, at least, 1 more month and even longer.

Permanency of disability cannot be, at this time, determined.
Further deponent sayeth not.

ADOLPHE J. KERBEL, M. D.

Subscribed and sworn to before me this 24th day of March 1941 at Astoria, Oreg.

ASTORIA, OREG.

ARTHUR T. STRICKLAND,
Investigating Officer

AFFIDAVIT

STATE OF OREGON,

County of Clatsop, ss:

Personally appeared before me, the undersigned, authorized to administer oaths in matters of this nature, one George C. Sheahan, of Petroleum Products, Inc., Astoria, Oreg., who, upon duly sworn, deposes and says:

That I did witness an accident involving a Civilian Conservation Corps Army truck and a civilian truck on U S 101 on February 28, 1941. At the time of the accident I was driving my car and meeting the two vehicles that had the accident.

I am in no way related to the owner or driver of the civilian truck that was involved.

The accident occurred on U S 101, 5 miles southeast of Seaside, Oreg., at approximately 11:30 a. m. on February 28, 1941. I was proceeding south on U S 101. On coming around a curve, I found a log truck approaching me on its side of the road and abreast of it, attempting to pass a Civilian Conservation Corps Army truck taking up the balance of the road. I could not say at what speed the vehicles were being driven as I was meeting them at the time. It appeared to me that some part of the right side of the Civilian Conservation Corps truck had hit the left-front fender of the log truck. The Army truck was crowding the log truck off the highway at the point of impact. The two vehicles proceeded some distance after the impact. It is not known by me which parts were damaged to either of the vehicles. The road was approximately an 18-foot paved road and was dry at the time of the accident. It was divided into two lanes of travel, and had shoulders about 4 feet wide. The accident occurred at end of a curve. The weather was clear.

I do not know if any signals were given. The driver of the Army truck was crowding the driver of the log truck off the highway. The driver of the log truck gave way to the right until he apparently lost control. At that time he leaped from the cab of his truck and he apparently went under the truck. When I reached the driver, Francis Circle, of Seaside, Oreg., he had a head wound and apparently could not control one leg.

There was no evidence of intoxication on the part of either of the drivers involved.

GEORGE C. SHEAHAN.

Subscribed and sworn to before me this 19th day of March 1941, at Astoria, Oreg.

ARTHUR T. STRICKLAND,
*Civilian Conservation Corps Subaltern,
Investigating Officer.*

AFFIDAVIT

STATE OF OREGON,

County of Clatsop, ss:

Personally appeared before me, the undersigned, authorized to administer oaths in matters of this nature, one Francis Circle, 216 Avenue G, Seaside, Oreg., who, upon being duly sworn, deposes and says:

That I, Francis Circle, of 216 Avenue G, Seaside, Oreg., was the owner of the logging truck which was involved in an accident with a Government vehicle on United States Highway 101, five miles southeast of Seaside, Oreg., on February 28, 1941, at 11:40 a. m. My vehicle was a 1939, 50-60 International truck, Oregon license No. 54,257.

I was the driver of the truck at the time of the accident. I was licensed to drive with chauffers license No. 4R398780, at Portland, Oreg., August 19, 1939. The license expires June 30, 1941.

At the time of the accident I was hauling logs to Warrenton, Oreg., I have no connection with the military service.

My truck was insured by the Truck Exchange Insurance Co., of Tenth Street, in Portland. The street number is not known by me. The insurance is \$5,000 and \$10,000 public liability insurance.

The truck is an International 1939 model, with six cylinders and with a cab. It was purchased at McMinnville, Oreg. on August 25, 1939, and was new at that time. The cost was \$6,660 when new.

I tried to avoid the accident by pulling over to the right until two wheels were off the pavement so as to prevent the Government vehicle from hitting my vehicle. I was afraid to pull any further because of the load I had on my truck.

The accident occurred on U S 101, 5 miles southeast of Seaside, on February 28, 1941, at 11:40 a. m. Just prior to the accident I was traveling northwest 35 miles per hour, on the right side of the road. I had noticed the Government vehicle following me about one-fourth of a mile, at a distance of about 100 feet. It kept following at 35 miles per hour on the right side of the road. At the time of the impact my vehicle was being driven 30 miles per hour on the right side of the road. The point of impact was 4 feet to the right of the center of the road. The right rear fender of the Government vehicle caught the left front fender of my truck, which caused me to lose control of my truck. The Government vehicle was at a diagonal position on the right lane, and my vehicle was straight in the right lane at the time of the impact.

It is not known by me how far either of the vehicles proceeded after the accident before stopping. When I saw that I could no longer control my truck, I jumped out of the cab because I was afraid of the logs coming into the cab and crushing me. After I jumped out I was so dazed that I don't know what happened.

There was some damage to my vehicle. The coupling that holds the trailer was broken and my left front fender was smashed. It cost me \$18.00 to get the truck fixed.

At the time of the accident there were two people in the Government truck. The road was an 18-foot paved road and was dry at the time of the accident. It was divided in two lanes of travel and had shoulders 4 feet wide. The accident occurred on a slight downgrade in the direction I was going. It was on a straight section of road just before a curve to the left. The weather was clear. The curve that was just ahead of both vehicles was obstructed by a barn and some trees. My truck was in perfect mechanical condition at the time of the accident. It had been inspected thoroughly on February 14, 1941.

As the Government truck was alongside of the logs on my truck I heard a horn blowing. A moment later I saw a Buick sedan coming into view around the curve to my front. I kept thinking the Government truck would drop behind me because he had plenty of time to do so. The driver of the Government truck chose to try to make it around my truck, so as to avoid hitting the oncoming Buick head-on. In doing so he caused me to lose control by hitting my fender.

I was injured as the result of the accident. The extent of my injuries are not yet known. There was no evidence of intoxication on the part of any of the drivers. So far as now known I suffered a fractured pelvis and several fractured ribs.

The foregoing statement is not to be construed as a claim for said injuries to the director of the Civilian Conservation Corps.

Further deponent sayeth not.

FRANCIS CIRCLE.

Subscribed and sworn to before me this 18th day of March 1941 at Astoria, Oreg.

ARTHUR T. STRICKLAND,
*Civilian Conservation Corps Subaltern,
Investigating Officer.*

AFFIDAVIT

STATE OF OREGON, *County of Clatsop, ss:*

Personally appeared before me, the undersigned, authorized to administer oaths in matters of this nature, one Roland O. Kirk, CC4-375198, member of Company 6414, Camp Saddle Mountain, SP-11, Oregon, who, upon being duly sworn, deposes and says:

That I, Roland O Kirk, CC4-375198, assistant leader, Company 6414, Civilian Conservation Corps, Seaside, Oreg., have been a member of the Civilian Conservation Corps for 8 months. My duties have been a truck driver's since I have been enrolled in the Civilian Conservation Corps. I drove for the technical service until February 24, 1941. At that time I started driving for the Army. I was given the operator's examination January 20, 1941, by A. M. Jaroff at Vancouver Barracks, Wash.

On February 28, 1941, I was the driver of Dodge truck USCCC No. 17479 C. C. Asa B. Luter authorized me to drive this truck from camp to Seaside, for the purpose of mail and pay roll. On this trip Asa B. Luter, of Civilian Conservation Corps, Company 6414, was seated by me in the cab of the truck.

The other vehicle involved in the accident was an International truck loaded with logs. Francis Circle was the driver of the vehicle. Its license number was

Oregon 54257. I tried to avoid this accident by blowing the horn and trying to pass the truck driven by Francis Circle so as to avoid hitting an oncoming car head-on.

This accident occurred on United States Highway 101, 5 miles southeast of Seaside on February 28, 1941, at 11:40 a. m. Just prior to the accident I was traveling northwest 30 miles per hour and had been following the truck, driven by Francis Circle, for about 1 mile. I attempted to pass his truck, and, when the truck I was driving was alongside the truck driven by Francis Circle I saw a Buick sedan rounding a curve and approaching me at a rapid rate of speed. I did not have time to drop back behind the other truck, so I attempted to get in front of it before I met the Buick. My speed at this time was 35 miles per hour and I was on the left side of the road.

I had difficulty in getting past the log truck because of the amount of road he was taking. His truck was over the center line while I was alongside him. I kept blowing the horn on the truck, but he continued to use more than half of the road. As I pulled in front of him my right rear fender scrapped his left front fender. The point of impact was less than a foot on the right of the center line. The Army truck was crossing from the left lane to the right lane and the log truck was proceeding on the right lane. I proceeded 340 feet after scraping his fender and his truck proceeded 235 feet. There were no skid marks made by either of the vehicles before or after the impact.

There was no damage to the Government vehicle. The other vehicle had its coupling between the truck and trailer broken and its load of logs thrown off the truck. The only person in the other vehicle was the driver.

The roadway was 18 feet, pavement and shoulders about 4½ feet wide. The weather was cloudy and the road was dry. There was a yellow stripe painted along the center of the road. The accident occurred on a downgrade of less than 1 percent and along a straight section of road. At the time I pulled out to pass I could see ahead 1,500 feet to a slight curve. It was impossible to see around this curve due to trees and a building. The Buick sedan was about 700 feet ahead of me when it came into view.

The truck which I was driving was in perfect mechanical condition, at the time of the accident. I kept blowing my horn as I was passing the log truck and would have been able to have passed it easily if he had not been gaining speed and crowding me for room. The other driver didn't seem to try to avoid the accident at all.

Francis Circle, of 216 Avenue G, Seaside, Oreg., was injured as the result of this accident. There was no evidence of intoxication on the part of anyone involved in this accident.

Further deponent sayeth not.

ROLAND O. KIRK, CC4-376198.

Subscribed and sworn to before me this 13th day of March 1941 at Camp Saddle Mountain, SP-11, Seaside, Oreg.

ARTHUR T. STRICKLAND,
Investigating Officer.

EXTRACTS OF PERTINENT TRAFFIC REGULATIONS

SECTION 55-2301—DRIVE ON RIGHT SIDE OF HIGHWAY

(a) Upon all highways of sufficient width, other than one-way highways, the driver of a vehicle shall drive the same upon the right half of the highway except when the right half is out of repair and for such reason impassable or when overtaking and passing another vehicle subject to the limitations set forth in section 30.

(b) In driving upon the right half of a highway the driver shall drive as closely as practicable to the right-hand edge or curb of the highway except when overtaking or passing another vehicle, or when placing a vehicle in position to make a left turn.

(c) * * *

SECTION 55-2304—OVERTAKING A VEHICLE

Except as otherwise provided in section 30 the following rules shall govern the overtaking and passing of vehicles:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle.

(b) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on suitable and audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(c) In the event two or more vehicles are moving in the same direction in parallel lanes upon the right half of the paved portion of a city street or upon any hardsurfaced highways having space for two or more lanes of traffic in each direction, the provisions of subdivisions (a) and (b) of this section shall not be considered as prohibiting the vehicles in the right-hand lane overtaking or passing those in the left-hand lane, provided that such overtaking vehicle shall not exceed the indicated speed for the district, nor shall the provisions of subdivisions (a) and (b) of this section be construed to prohibit a driver overtaking and passing upon the right another vehicle which is making, or about to make, a left turn.

(d) The driver of an overtaking motor vehicle when traveling outside of a business or residence district, and under other conditions when necessary to insure safe operation, shall give audible warning with his horn or other warning device before passing or attempting to pass a vehicle proceeding in the same direction. (L. 1931, C. 360; O. C. 1935 Supp., p. 1481.)

SECTION 55-2305—LIMITATIONS ON PRIVILEGE OF OVERTAKING AND PASSING

(a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without impeding the safe operating of any vehicle approaching from the opposite direction or any vehicle overtaken, nor shall the driver of a vehicle in any event drive to the left side of the center line of a highway when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of five hundred (500) feet.

(b) * * *

Certified true copy.

ARTHUR T. STRICKLAND,
*Civilian Conservation Corps Subaltern,
Investigating Officer.*

FINDINGS

That Roland O. Kirk, CC4-375198, the driver of USCCC truck No. 17479, was not under the influence of liquor. Although in passing an International truck, license No. 54257, 1941, Oregon, he cut in front of the truck too soon, which is unlawful. The truck, owned and driven by Francis Circle, was caused damage estimated as follows:

USCCC 17479-----	None
International truck, 1939-----	\$18

RECOMMENDATIONS

That Enrollee Roland O. Kirk, CC4-375198, not be held pecuniarily responsible, and that the privilege of driving a Government vehicle be kept from him.

ARTHUR T. STRICKLAND,
*Civilian Conservation Corps Subaltern,
Investigating Officer.*

HEADQUARTERS

VANCOUVER BARRACKS, CIVILIAN CONSERVATION CORPS DISTRICT

OFFICE OF THE DISTRICT COMMANDER

Vancouver Barracks, Wash.

MARCH 27, 1941.

Action of the district commander:

Approved.

Enrollee Roland O. Kirk, CC4-375198, has been relieved from duty as a motor vehicle operator.

For the district commander.

A. P. JENSEN,
*Civilian Conservation Corps
Assistant District Adjutant.*

(USCCC truck No. 17479—accident occurred February 28, 1941.)

